

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2153

**Introduced by Assembly Member Cristina Garcia
(Coauthor: Assembly Member Santiago)**

February 17, 2016

~~An act to add Chapter 7.5 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor. An act to amend, repeal, and add Section 25190 of, to add Section 25215.5.5 to, and to repeal and add Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. ~~Lead-Acid Battery Recovery and Recycling Act. The Lead-Acid Battery Recycling Act of 2016.~~

Existing law prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. Existing law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid battery purchased by that consumer from the dealer.

This bill, the Lead-Acid Battery Recycling Act of 2016, would, as of January 1, 2017, revise these provisions to require a dealer to accept, at the point of transfer, a lead-acid battery of the same type and size that is sold by the dealer, without regard to the brand or original dealer of the used lead-acid battery, and would prohibit the dealer from charging any fee to accept a used lead-acid battery. The bill would require a dealer to collect a refundable deposit for each new lead-acid battery from a person who purchases the battery and who does not simultaneously provide a used lead-acid battery of the same size and type, and would require the dealer to refund the deposit to the person if, within 45 days of the sale of that lead-acid battery, the person presents a used lead-acid battery of the same type and size. The bill would require a dealer to post a specified notice with regard to these provisions. The bill would allow the dealer to keep any lead-acid battery refundable deposit that is not properly claimed within 45 days after the date of sale of the new lead-acid battery.

This bill would require a dealer to charge a consumer or business, at the time of sale, a California battery fee in the amount of \$1 for each replacement lead-acid battery purchased. The bill would authorize the dealer to retain 1½% of the fee as reimbursement for any costs associated with the collection of the fee and to remit the remainder to the State Board of Equalization for deposit into the Lead-Acid Battery Cleanup Fund, which would be created by this bill.

This bill would require a manufacturer of lead-acid batteries to remit to the State Board of Equalization a manufacturer battery fee of \$1 for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California, for deposit into the Lead-Acid Battery Cleanup Fund. The bill would provide for certain credits against liability for a person who remits manufacturer battery fees if that person is held responsible by any court, regional board, agency, or any other authority for certain hazardous substance violations. The bill would authorize the state to bring an action against a person who has remitted manufacturer battery fees for the payment or reimbursement of any moneys to the state or a regional board for specified response actions only if the state has a reasonable basis to believe that the person would ultimately be held responsible for amounts in excess of the amount the person has remitted in manufacturer battery fees that is not already committed to the person's liability. The bill would allow certain wholesalers of lead-acid

batteries to elect to be considered manufacturers for these purposes, as specified.

This bill would continuously appropriate moneys in the Lead-Acid Battery Cleanup Fund to the Department of Toxic Substances Control and the State Board of Equalization, as applicable, for purposes of response actions at sites investigated due to concern of lead release from a lead-acid battery recycling facility, administration of the fund, and reimbursement of certain General Fund loans for lead cleanup. The bill would make the reimbursement money available for further loans, as specified. The bill would require the department, before seeking to recover moneys spent on the above-described response actions from a person who has remitted manufacturer battery fees, to first draw from and deplete the fund and exhaust efforts to recover any moneys from the owner or operator of the site where the response action occurred, or the site identified as the source of release to which the response action was directed. If a person from whom the department recovers such moneys receives a favorable judgment against a person who has remitted manufacturer battery fees, the bill would require that the judgment be reduced by the amount remitted as manufacturer battery fees.

This bill would require, on and after July 1, 2017, a manufacturer to place a uniform widely understood recycling symbol on all replacement lead-acid batteries sold in California.

This bill would require the department to report annually to the Governor and the Legislature on the status of the Lead-Acid Battery Cleanup Fund and on the department's progress in implementing these provisions.

This bill would require the department to notify manufacturers of replacement lead-acid batteries of the bill's requirements, as specified, and would require those manufacturers to notify distributors, wholesalers, and dealers of the lead-acid batteries it manufactures of the bill's requirements, as specified.

A violation of the existing lead-acid battery management provisions is punishable as a misdemeanor.

The bill would instead authorize the department to impose civil administrative penalties on any person who is in violation of these provisions and would require the penalty money to be deposited into the Lead-Acid Battery Cleanup Fund.

This bill would declare that it is to take effect immediately as an urgency statute.

Existing law requires a retailer of various specified products, including rechargeable batteries and cellular telephones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.

This bill would establish the Used Lead-Acid Battery Recovery and Recycling Act. The bill would require a qualified industry association, as defined, to establish a lead-acid battery recycling organization, as defined. The bill would authorize the Department of Resources Recycling and Recovery to certify that a lead-acid battery recycling organization has been established. The bill would require the lead-acid battery recycling organization to develop, implement, and administer a lead-acid battery recycling program pursuant to the act. The bill would require manufacturers, retailers, and recyclers of lead-acid batteries to register with the lead-acid battery recycling organization on or before January 1, 2018.

This bill would prohibit, on and after January 1, 2019, a manufacturer, recycler, or retailer from, among other things, selling a lead-acid battery, or importing a lead-acid battery into this state, except in compliance with the bill's requirements.

This bill would require the lead-acid battery recycling organization, by July 1, 2018, to develop a plan for recycling used lead-acid batteries in the state that includes specified goals and elements and to submit the plan to the department, as specified. The plan would be required, among other things, to ensure that it addresses the impact of the requirement of the California Constitution that a local government submit the imposition, extension, or increase in a tax to the electorate for approval, with regard to local governments participating in the program. The bill would require the organization, by July 1, 2018, to annually prepare and approve a proposed used lead-acid battery recycling program plan budget for the next calendar year and to submit the budget to the department for approval, as specified. The bill would require the department to notify the organization of the department's costs that are directly related to implementing and enforcing the act and would require the organization to reimburse the department for those direct costs. The bill would require the department to deposit these amounts submitted by the organization into the Used Lead-Acid Battery Recycling Fund, which the bill would establish in the State Treasury. The bill would require the department to expend the moneys in the fund, upon appropriation by the Legislature, to administer and enforce the act and

~~to reimburse any outstanding loans made from other funds used to finance the startup implementation costs to the department, as provided.~~

~~This bill would require the organization to annually set the amount of a state lead-acid battery recycling charge that would be added to the purchase price of a lead-acid battery, and would require a manufacturer, recycler, retailer, wholesaler, distributor, or other party that sells a lead-acid battery to add the charge to the purchase price for the lead-acid battery and remit the charges collected, less refunds, quarterly to the organization, as specified. The bill would require the lead-acid battery recycling charge to be charged in lieu of any voluntary core charge being collected by retailers. The bill would require the organization to remit \$1 from the sale of each lead-acid battery to be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill. Moneys in the Lead-Acid Battery Cleanup Fund would be continuously appropriated to the Department of Toxic Substances Control for the cleanup of areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries. The bill would require the organization to suspend and resume remitting the \$1 from the sale of each lead-acid battery to the Lead-Acid Battery Cleanup Fund based on the balance in the fund.~~

~~This bill would require a manufacturer, recycler, retailer, or distributor to affix a California recycling sticker, as determined by the Department of Resources Recycling and Recovery, to each lead-acid battery at the point of sale. The bill would require that every consumer who returns a lead-acid battery with a California recycling sticker to a manufacturer, retailer, or other entity that sells lead-acid batteries to the ultimate user be given a refund of the recycling charge minus \$3, as specified. The bill would prohibit a refund from being given to a consumer who returns a lead-acid battery without a California recycling sticker. The bill would require a retailer that sells a used lead-acid battery to a manufacturer to remit 75% of the sale price of the used lead-acid battery to the organization for deposit into the Lead-Acid Battery Cleanup Fund.~~

~~This bill would authorize the department to impose an administrative civil penalty on a manufacturer, organization, recycler, or retailer in violation of the act, and the department would be authorized to expend the moneys, upon appropriation by the Legislature, to implement the act.~~

~~The bill would authorize the department to adopt emergency regulations establishing a process for the submission and approval of the used lead-acid battery recovery and recycling plan, and for the~~

~~submission and approval of the proposed used lead-acid battery recycling program budget.~~

~~This bill would provide for the repayment of a portion of a specified General Fund loan from the Lead-Acid Battery Cleanup Fund, and would make that repayment money available for further loans, as specified.~~

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 25190 of the Health and Safety Code is*
2 *amended to read:*

3 25190. (a) Except as otherwise provided in Sections 25185.6,
4 25189.5, 25189.6, 25189.7, and 25191, any person who violates
5 any provision of this chapter, or any permit, rule, regulation,
6 standard, or requirement issued or adopted pursuant to this chapter,
7 is, upon conviction, guilty of a misdemeanor and shall be punished
8 by a fine of not more than one thousand dollars (\$1,000) or by
9 imprisonment for up to six months in a county jail or by both that
10 fine and imprisonment.

11 (b) If the conviction is for a second or subsequent violation, the
12 person shall, upon conviction, be punished by imprisonment in
13 the county jail for not more than one year or by imprisonment
14 pursuant to subdivision (h) of Section 1170 of the Penal Code for
15 16, 20, or 24 months. The court shall also impose upon the person
16 a fine of not less than five thousand dollars (\$5,000) or more than
17 twenty-five thousand dollars (\$25,000).

18 (c) *This section shall remain in effect only until January 1, 2017,*
19 *and as of that date is repealed, unless a later enacted statute, that*
20 *is enacted before January 1, 2017, deletes or extends that date.*

21 *SEC. 2. Section 25190 is added to the Health and Safety Code,*
22 *to read:*

23 25190. (a) Except as otherwise provided in Sections 25185.6,
24 25189.5, 25189.6, 25189.7, 25191, and 25215.7, any person who
25 violates any provision of this chapter, or any permit, rule,
26 regulation, standard, or requirement issued or adopted pursuant
27 to this chapter, is, upon conviction, guilty of a misdemeanor and
28 shall be punished by a fine of not more than one thousand dollars

1 (\$1,000) or by imprisonment for up to six months in a county jail
2 or by both that fine and imprisonment.

3 (b) If the conviction is for a second or subsequent violation, the
4 person shall, upon conviction, be punished by imprisonment in the
5 county jail for not more than one year or by imprisonment pursuant
6 to subdivision (h) of Section 1170 of the Penal Code for 16, 20,
7 or 24 months. The court shall also impose upon the person a fine
8 of not less than five thousand dollars (\$5,000) or more than
9 twenty-five thousand dollars (\$25,000).

10 (c) This section shall become operative on January 1, 2017.

11 SEC. 3. Article 10.5 (commencing with Section 25215) is added
12 to Chapter 6.5 of Division 20 of the Health and Safety Code, to
13 read:

14
15 Article 10.5. The Lead-Acid Battery Recycling Act of 2016

16
17 25215. This article shall be known, and may be cited, as the
18 Lead-Acid Battery Recycling Act of 2016.

19 25215.1. For purposes of this article, the following definitions
20 shall apply:

21 (a) "Business" means any person, as defined in subdivision (j),
22 that is not a natural person.

23 (b) "California battery fee" means the fee imposed pursuant to
24 Section 25215.25.

25 (c) "Consumer" means every natural person who purchases a
26 lead-acid battery at retail in California for use or consumption.

27 (d) "Dealer" means every person who sells at retail replacement
28 lead-acid batteries directly to persons in California.

29 (e) "Lead-acid battery" means any battery weighing over five
30 kilograms that is primarily composed of both lead and sulfuric
31 acid, whether sulfuric acid is in liquid, solid, or gel state, with a
32 capacity of six volts or more that is used for any of the following
33 purposes:

34 (1) As a starting battery that is designed to deliver a high burst
35 of energy to an internal combustion engine until it starts.

36 (2) As a motive power battery that is designed to provide the
37 source of power for propulsion or operation of a vehicle, including
38 a boat.

39 (3) As a stationary storage or standby battery that is designed
40 to be used in systems where the battery acts as either electrical

1 storage for electricity generation equipment or a source of
2 emergency power, or otherwise serves as a backup in case of
3 failure or interruption in the flow of power from the primary
4 source.

5 (4) As a source of auxiliary power to support the electrical
6 systems in a vehicle.

7 (f) “Lead-acid battery recycling facility” means any site at
8 which lead-acid batteries are or have been disassembled for the
9 purpose of making components available for reclamation to
10 produce elemental lead or lead alloys or at which lead-acid
11 batteries or their components, or both, are or have been reclaimed
12 to produce elemental lead or lead alloys.

13 (g) “Manufacturer” means either of the following:

14 (1) The person who manufactures the lead-acid battery and who
15 sells, offers for sale, or distributes the lead-acid battery in the
16 state, unless subdivision (b) of Section 25215.35 applies to the
17 lead-acid battery, in which case the wholesaler shall be deemed
18 the manufacturer, except for purposes of Section 25215.65.

19 (2) If there is no person described in paragraph (1) that is
20 subject to the jurisdiction of the state, the manufacturer is the
21 person who imports the lead-acid battery into the state for sale or
22 distribution.

23 (h) “Manufacturer battery fee” means the fee imposed pursuant
24 to Section 25215.35.

25 (i) “Owner or operator” has the same meaning given in Section
26 9601(20) of Title 42 of the United States Code.

27 (j) “Person” means a natural person, trust, firm, joint stock
28 company, corporation, company, partnership, limited liability
29 company, or association.

30 (k) “Remedial action” has the same meaning as in Section
31 25322.

32 (l) “Removal” has the same meaning as in Section 25323.

33 (m) “Replacement lead-acid battery” means a new lead-acid
34 battery that is sold at retail subsequent to the original sale or lease
35 of the equipment or vehicle in which the lead-acid battery is
36 intended to be used. “Replacement lead-acid battery” does not
37 include a spent, discarded, refurbished, or reused lead-acid battery.

38 (n) “Response action” has the same meaning as in Section
39 25323.3.

1 (o) A “retail” sale, or a sale “at retail,” means the sale of a
2 new lead-acid battery to a person in California who is the ultimate
3 user either at a California store or via the Internet, telephone,
4 mail order, or otherwise, including, but not limited to, the sale of
5 a new lead-acid battery in connection with vehicle service or
6 repair. “Retail” sale does not include sales to a wholesaler or
7 dealer, to a person for incorporation into new equipment for
8 subsequent resale, or replacement of a lead-acid battery pursuant
9 to a vehicle manufacturer’s warranty or a service contract
10 described under Section 12800 of the Insurance Code.

11 (p) “Used lead-acid battery” means a lead-acid battery no
12 longer fully capable of providing the power for which it was
13 designed or that a consumer or other user no longer wants for any
14 other reason.

15 (q) “Wholesaler” means any person who purchases a lead-acid
16 battery from a manufacturer for the purpose of selling the lead-acid
17 battery to a dealer, high-volume customer, or to a person for
18 incorporation into new equipment for resale.

19 25215.15. (a) Except as provided in subdivision (b), no person
20 shall dispose, or attempt to dispose, of a lead-acid battery at a
21 solid waste facility or on or in any land, surface waters,
22 watercourses, or marine waters.

23 (b) A person may dispose of a lead-acid battery at any of the
24 following locations:

25 (1) A facility, including a facility located at a solid waste facility,
26 established and operated for the purpose of recycling, or providing
27 for the eventual recycling of, lead-acid batteries.

28 (2) A dealer pursuant to Section 25215.2.

29 25215.2. (a) A dealer shall accept from persons at the point
30 of transfer a used lead-acid battery of the same type and size that
31 is sold by the dealer, without regard to the brand or original dealer
32 of the used lead-acid battery, but shall not be required to accept
33 from any person more than six used lead-acid batteries per day.
34 A dealer shall not charge any fee to receive a used lead-acid
35 battery.

36 (b) A dealer shall charge to each person who purchases a
37 replacement lead-acid battery and who does not simultaneously
38 provide the dealer with a used lead-acid battery of the same type
39 and size a refundable deposit for each such battery purchased.
40 The dealer shall display the amount of the deposit on the receipt

1 provided to the purchaser as a separate line item. The dealer shall
2 refund the deposit to that person if, within 45 days of the sale of
3 the replacement lead-acid battery, the person presents to the dealer
4 a used lead-acid battery of the same type and size. A dealer may
5 require the person to provide a receipt documenting the payment
6 of the deposit before refunding any deposit. A dealer may keep
7 any lead-acid battery deposit moneys that are not properly claimed
8 within 45 days after the date of sale of the replacement lead-acid
9 battery.

10 (c) A dealer shall post a written notice that is clearly visible in
11 the public sales area of the establishment and that contains the
12 following language:

13
14 *It is unlawful to dispose of a motor vehicle battery or other lead-acid battery*
15 *in a landfill or any unauthorized site.*

16
17 *Recycle all used batteries.*

18 *This dealer is required by law to accept used lead-acid batteries of the same*
19 *type and size sold by the dealer, but is not required to accept more than six*
20 *lead-acid batteries from any person per day.*

21
22 *When a replacement lead-acid battery is purchased, this dealer is required by*
23 *law to charge a nonrefundable \$1 California battery fee for each battery.*

24
25 *An additional refundable deposit will be charged for each replacement*
26 *lead-acid battery purchased unless a used lead-acid battery of the same type*
27 *and size is returned at the time of purchase. The deposit will be refunded by*
28 *the dealer if a used lead-acid battery of the same type and size is returned*
29 *within 45 days of purchase of the replacement lead-acid battery. Upon return*
30 *of a lead-acid battery for the refund of this deposit, the dealer may require the*
31 *consumer to show the receipt for the purchase of the lead-acid battery on*
32 *which the deposit was paid.*

33
34 (d) This section does not apply to a person whose ordinary
35 course of business does not include the sale of lead-acid batteries.

36 25215.25. (a) (1) A consumer or business that purchases from
37 a dealer a replacement lead-acid battery shall pay a California
38 battery fee of one dollar (\$1) for each replacement lead-acid
39 battery purchased.

1 (2) *The dealer shall charge a consumer or business the amount*
2 *of the California battery fee as a charge that is separate from, and*
3 *not included in, any other fee, charge, or other amount paid by*
4 *the consumer or business.*

5 (3) *The dealer shall collect the California battery fee at the time*
6 *of sale and may retain 1 1/2 percent of the fee as reimbursement for*
7 *any costs associated with the collection of the fee. The dealer shall*
8 *remit the remainder to the State Board of Equalization on a*
9 *quarterly schedule pursuant to Section 25215.45. All moneys*
10 *remitted to the State Board of Equalization from the California*
11 *battery fee shall be deposited into the Lead-Acid Battery Cleanup*
12 *Fund.*

13 (b) *The California battery fee imposed pursuant to subdivision*
14 *(a) shall be separately stated by the dealer on the invoice given to*
15 *a consumer or business at the time of sale. Any other fee charged*
16 *by the dealer related to the lead-acid battery purchase, including*
17 *any deposit charged, credited, or both, pursuant to Section*
18 *25215.2, shall be identified separately from the California battery*
19 *fee.*

20 25215.3. *An advertisement or other printed promotional*
21 *material related to the sale of replacement lead-acid batteries*
22 *shall contain the following notice: "By law, a nonrefundable \$1*
23 *California battery fee is charged per replacement lead-acid battery*
24 *purchased, and an additional refundable deposit will be charged*
25 *unless a used lead-acid battery of the same type and size is returned*
26 *at the time of purchase. The deposit shall be refunded if a used*
27 *battery of the same type and size as that purchased is returned*
28 *within 45 days with a receipt from the purchase."*

29 25215.35. (a) *Each manufacturer of lead-acid batteries shall*
30 *remit to the State Board of Equalization a manufacturer battery*
31 *fee of one dollar (\$1) for each lead-acid battery it sells at retail*
32 *to a person in California or that it sells to a dealer, wholesaler,*
33 *distributor, or other person for retail sale in California. The*
34 *manufacturer shall remit the fees on a quarterly schedule pursuant*
35 *to Section 25215.45. All moneys remitted to the State Board of*
36 *Equalization from the manufacturer battery fee shall be deposited*
37 *into the Lead-Acid Battery Cleanup Fund.*

38 (b) (1) *A wholesaler of a lead-acid battery who ships or*
39 *arranges for the shipment of used lead-acid batteries to a lead-acid*
40 *battery recycling facility may elect to be considered a manufacturer*

1 *for purposes of subdivision (a) and Sections 25215.5 and 25215.55.*
2 *To so elect, the wholesaler shall notify the manufacturer of the*
3 *lead-acid battery from which he or she purchased the lead-acid*
4 *battery, the department, and the State Board of Equalization of its*
5 *intent to be considered a manufacturer for those purposes and*
6 *shall remit a manufacturer battery fee for each lead-acid battery*
7 *purchased from the notified manufacturer. The wholesaler shall*
8 *provide at least 30 days' notice to the manufacturer, the*
9 *department, and State Board of Equalization before the wholesaler*
10 *is considered a manufacturer under subdivision (a). A*
11 *manufacturer who has been notified by a wholesaler pursuant to*
12 *this subdivision shall not be subject to subdivision (a) for purposes*
13 *of the lead-acid batteries sold to the wholesaler.*

14 *(A) A manufacturer otherwise exempt from subdivision (a)*
15 *pursuant to this subdivision may voluntarily submit an additional*
16 *manufacturer battery fee of one dollar (\$1) per lead-acid battery*
17 *that is otherwise covered by a wholesaler. A manufacturer that*
18 *voluntarily submits a manufacturer battery fee under this*
19 *subparagraph shall be subject to Sections 25215.5 and 25215.55.*

20 *(B) A manufacturer that submits a manufacturer battery fee*
21 *pursuant to subparagraph (A) shall be prohibited from imposing*
22 *or passing on the voluntarily remitted fees to a wholesaler.*

23 *(2) A wholesaler that provides notice pursuant to paragraph*
24 *(1) shall be considered a manufacturer for purposes of subdivision*
25 *(a) and Sections 25215.5 and 25215.55 until 60 days after the*
26 *wholesaler provides notice to the State Board of Equalization, the*
27 *department, and the manufacturer of the lead-acid battery of the*
28 *wholesaler's intention to no longer be considered a manufacturer.*

29 *(3) The State Board of Equalization shall establish appropriate*
30 *procedures for providing notifications pursuant to this subdivision.*

31 *25215.45. (a) The State Board of Equalization shall establish*
32 *a mechanism by which the fees remitted pursuant to Sections*
33 *25215.25 and 25215.35 shall be due and payable quarterly on or*
34 *before the 15th day of the month following each calendar quarter.*
35 *The remitted moneys shall be deposited into the Lead-Acid Battery*
36 *Cleanup Fund.*

37 *(b) The department and the State Board of Equalization shall*
38 *be reimbursed for the costs of collection, auditing, and*
39 *administration of funds associated with the establishment and*
40 *operation of the Lead-Acid Battery Cleanup Fund in an amount*

1 *that shall not exceed 3 percent of the total annual revenue*
2 *deposited in the fund for a fiscal year.*

3 *(c) (1) The State Board of Equalization, if it deems it necessary*
4 *to ensure payment to, or facilitate the collection by, the state of*
5 *the amount of the fees required to be remitted under this article,*
6 *may require returns and payment of the amount of the fees for a*
7 *yearly period. The State Board of Equalization may audit the*
8 *returns submitted by a person who remits moneys to the Lead-Acid*
9 *Battery Cleanup Fund pursuant to Section 25215.25 or 25215.35.*

10 *(2) On or before the 15th day of the month following each*
11 *designated yearly period, a return for the preceding designated*
12 *yearly period shall be filed with the State Board of Equalization*
13 *in the form that the State Board of Equalization prescribes.*

14 *25215.5. (a) The Lead-Acid Battery Cleanup Fund is hereby*
15 *created in the State Treasury.*

16 *(b) Moneys in the Lead-Acid Battery Cleanup Fund shall be*
17 *continuously appropriated, without regard to fiscal year, solely*
18 *to pay the costs for the following activities:*

19 *(1) To the department for investigation, site evaluation, cleanup,*
20 *abatement, remedy, removal, monitoring, or other response actions*
21 *at any site in California investigated because of concerns about*
22 *lead releases from a lead-acid battery recycling facility, including,*
23 *but not limited to, areas at or near the former Exide lead-acid*
24 *battery recycling facility in Vernon, California.*

25 *(2) To the department and the State Board of Equalization for*
26 *administration of the Lead-Acid Battery Cleanup Fund, as provided*
27 *in subdivision (b) of Section 25215.45.*

28 *(3) To the department for repayment of a loan pursuant to*
29 *Section 25215.6.*

30 *(c) (1) Before seeking to recover moneys spent for purposes*
31 *identified in paragraph (1) of subdivision (b) from a person who*
32 *has remitted a manufacturer battery fee pursuant to Section*
33 *25215.35, other than a person who is the owner or operator, or*
34 *legal successor to the owner or operator, of a site at which the*
35 *activity occurred, the department shall do both of the following:*

36 *(A) Draw from and deplete the funds in the Lead-Acid Battery*
37 *Cleanup Fund.*

38 *(B) Exhaust efforts to recover any moneys expended for an*
39 *activity described in paragraph (1) of subdivision (b) from the*
40 *owner or operator, or legal successor to the owner or operator,*

1 of the site at which the activity occurred, or the site that is
2 identified as the source of the release to which the activity was
3 directed. If a person from whom the department recovered moneys
4 under this subparagraph receives a favorable judgment against a
5 second person who has remitted a manufacturer battery fee in an
6 action relating to those response activities, the judgment shall be
7 reduced by the amount the second person has already remitted to
8 the Lead-Acid battery Cleanup Fund pursuant to Section 25215.35
9 that is not previously committed to other payor liabilities.

10 (2) Nothing in this subdivision shall be construed to limit or
11 otherwise affect any cause of action that may exist under any law
12 that the state may bring against the owner or operator, or legal
13 successor to the owner or operator, of a site at which any activity
14 described in paragraph (1) of subdivision (b) occurred.

15 (d) Any funds expended from the Lead-Acid Battery Cleanup
16 Fund that are subsequently recovered from any person pursuant
17 to subdivision (c) shall be deposited into the Lead-Acid Battery
18 Cleanup Fund.

19 (e) Moneys from the Lead-Acid Battery Cleanup Fund shall not
20 be used to implement Article 14 (commencing with Section 25251)
21 with respect to lead-acid batteries or to loan moneys to any other
22 program. As long as the national recycling rate for lead in
23 lead-acid batteries, determined by the methodology accepted by
24 the United State Environmental Protection Agency and used in
25 the Battery Council International's National Recycling Rate Study,
26 exceeds __ percent, a lead-acid battery shall not be considered
27 for inclusion on a list of products established under Section 25252
28 or be otherwise regulated under Article 14 (commencing with
29 Section 25251). Nothing in this subdivision shall preclude a study
30 of the impacts and benefits of the manufacture and recycling of
31 lead-acid batteries from being conducted as a pilot project
32 pursuant to the department's Community Protection and
33 Hazardous Waste Reduction Initiative.

34 (f) The department shall report annually to the Governor and
35 to the Legislature on the status of the Lead-Acid Battery Cleanup
36 Fund and on the department's progress to implement this article,
37 including, but not limited to, the sites at which actions were
38 performed using moneys from the fund, the balance of the fund,
39 the amount of fees remitted to the fund, the amount spent by the
40 fund and the purposes for which those amounts were spent, the

1 amounts reimbursed to the department and the State Board of
2 Equalization pursuant to subdivision (b) of Section 25215.45, the
3 amounts collected by the department pursuant to subdivision (c),
4 and any other information requested by the Governor or the
5 Legislature.

6 25215.55. (a) (1) A person who has remitted a manufacturer
7 battery fee and who is held responsible by any court, regional
8 board, agency, or any other authority, under the
9 Carpenter-Presley-Tanner Hazardous Substance Account Act
10 (commencing with Section 25300) or any other law, for the
11 payment or reimbursement of any moneys to the state or a regional
12 board for any activity listed in paragraph (1) of subdivision (b) of
13 Section 25215.5 shall have its responsibility for that payment or
14 reimbursement reduced by the amount that person remitted
15 pursuant to Section 25215.35 that has not otherwise been
16 committed to the payor's liability and by the amount recovered by
17 the state pursuant to subparagraph (B) of paragraph (1) of
18 subdivision (c) of Section 25215.5.

19 (2) The state may bring an action against a person who has
20 remitted a manufacturer battery fee for the payment or
21 reimbursement of any moneys to the state or a regional board for
22 any of the activities listed in paragraph (1) of subdivision (b) of
23 Section 25215.5 only if the state has a reasonable basis to believe
24 that the person ultimately would be held responsible for amounts
25 in excess of the amount of manufacturer battery fees the person
26 has remitted to the Lead-Acid Battery Cleanup Fund that is not
27 already committed to the payor's liability.

28 (3) Before bringing any action against a person pursuant to
29 paragraph (2), the state shall notify the person of the state's intent
30 to bring the action and meet and confer with that person to attempt
31 to reach an agreement by which the person voluntarily resolves
32 the state's claim.

33 (4) Nothing in this subdivision shall be construed to create a
34 private cause of action against a manufacturer, affect any cause
35 of action that may exist under other law, or reduce the amount of
36 damages for which a manufacturer is held liable in any civil action
37 for personal injury or wrongful death.

38 (5) Nothing in this subdivision shall be construed to limit or
39 otherwise affect a claim the state may assert against an owner or
40 operator, or legal successor of an owner or operator, of a site at

1 which any activity described in paragraph (1) of subdivision (b)
2 of Section 25215.5 occurred.

3 (b) Notwithstanding any other law, not including a person who
4 is or was an owner or operator of a site subject to paragraph (1)
5 of subdivision (b) of Section 25215.5, an administrative order shall
6 not be issued or judicial relief sought to compel any person who
7 has remitted a manufacturer battery fee to take any activity
8 described in paragraph (1) of subdivision (b) of Section 25215.5
9 at that site unless all of the following conditions are met:

10 (1) The Lead-Acid Battery Cleanup Fund has been exhausted
11 by the state.

12 (2) Any activities undertaken by any party at the site have been
13 inadequate to fully address concerns to which the activities
14 described in paragraph (1) of subdivision (b) of Section 25215.5
15 would be directed.

16 (3) The state has a reasonable basis to believe that, if state or
17 private funds are used to undertake the activities described in
18 paragraph (1) of subdivision (b) of Section 25215.5 and recovery
19 of those funds is sought from the person against whom the
20 administrative order was issued, that person ultimately would be
21 held responsible for amounts in excess of the amount of
22 manufacturer battery fees the person has remitted to the Lead-Acid
23 Battery Cleanup Fund that is not already committed to the payor's
24 liability.

25 25215.6. If the state loans money from the General Fund to
26 the Toxic Substances Control Account for the cleanup of lead
27 contamination in the state, the following shall apply:

28 (a) Money from the Lead-Acid Battery Cleanup Fund may be
29 used towards repaying the loan.

30 (b) Any moneys designated as repayment of the loan shall be
31 deposited to that loan, but shall be available to be loaned to the
32 Toxic Substances Control Account for the purposes of cleaning
33 up areas of the state that have been contaminated with lead by the
34 production, handling, storage, reclamation, or improper disposal
35 of lead-acid batteries.

36 25215.65. On and after July 1, 2017, a manufacturer shall
37 place a uniform widely understood recycling symbol on all
38 replacement lead-acid batteries sold in California.

1 25215.7. (a) *The department may impose civil administrative*
2 *penalties not to exceed one thousand dollars (\$1,000) per day on*
3 *any person who is in violation of any provision of this article.*

4 (b) *In assessing or reviewing the amount of a civil penalty*
5 *imposed pursuant to subdivision (a) for a violation of this article,*
6 *the department or the court shall consider all of the following:*

7 (1) *The nature and extent of the violation.*

8 (2) *The number and severity of the violation or violations.*

9 (3) *The economic effect of the penalty on the violator.*

10 (4) *Whether the violator took good faith measures to comply*
11 *with this article and the period of time over which these measures*
12 *were taken.*

13 (5) *The willfulness of the violator's misconduct.*

14 (6) *The deterrent effect that the imposition of the penalty would*
15 *have on both the violator and the regulated community.*

16 (7) *Any other factor that justice may require.*

17 (c) *The department shall deposit all penalties collected pursuant*
18 *to this section into the Lead-Acid Battery Cleanup Fund.*

19 25215.75. *This article shall become operative on January 1,*
20 *2017.*

21 SEC. 4. *Section 25215.5.5 is added to the Health and Safety*
22 *Code, to read:*

23 25215.5.5. *This article shall remain in effect only until January*
24 *1, 2017, and as of that date is repealed, unless a later enacted*
25 *statute, that is enacted before January 1, 2017, deletes or extends*
26 *that date.*

27 SEC. 5. (a) *The Department of Toxic Substances Control,*
28 *within 30 days after the effective date of this act, shall notify all*
29 *manufacturers of replacement lead-acid batteries sold in this state*
30 *of the requirements set forth in Article 10.5 (commencing with*
31 *Section 25215) of Chapter 6.5 of Division 20 of the Health and*
32 *Safety Code, as it will read on and after January 1, 2017.*

33 (b) *Each manufacturer of lead-acid batteries sold in this state,*
34 *within 30 days of receiving notice pursuant to subdivision (a),*
35 *shall notify the distributors, wholesalers, and dealers of the*
36 *lead-acid batteries it manufactures of the requirements set forth*
37 *in Article 10.5 (commencing with Section 25215) of Chapter 6.5*
38 *of Division 20 of the Health and Safety Code, as it will read on*
39 *and after January 1, 2017.*

1 *SEC. 6. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to increase the cleanup of toxic materials and to prevent*
6 *additional toxic pollution at the earliest possible time, it is*
7 *necessary that this act take effect immediately.*

8 ~~SECTION 1. Chapter 7.5 (commencing with Section 42420)~~
9 ~~is added to Part 3 of Division 30 of the Public Resources Code, to~~
10 ~~read:~~

11
12 ~~CHAPTER 7.5. LEAD-ACID BATTERY RECOVERY AND RECYCLING~~
13 ~~Act~~

14
15 ~~Article 1. Declarations and Definitions~~

16
17 ~~42420. (a) The Legislature finds and declares that in order to~~
18 ~~reduce illegal dumping, increase recycling, and substantially reduce~~
19 ~~public agency costs for the end-of-life management of lead-acid~~
20 ~~batteries, the Lead-Acid Battery Recovery and Recycling Act is~~
21 ~~hereby established by this chapter to require manufacturers of~~
22 ~~lead-acid batteries sold in this state to develop, finance, and~~
23 ~~implement a convenient and cost-effective program to recover and~~
24 ~~recycle lead-acid batteries generated in this state.~~

25 ~~(b) It is the intent of the Legislature in enacting this chapter that~~
26 ~~all of the following occur:~~

27 ~~(1) That consumers have the opportunity to drop off their~~
28 ~~lead-acid batteries free of charge.~~

29 ~~(2) That existing lead-acid battery recycling, resale, refurbishing,~~
30 ~~and reuse operations that are in compliance with state and federal~~
31 ~~law shall not be adversely affected by this chapter.~~

32 ~~(3) That domestic processing of lead-acid batteries and the~~
33 ~~utilization of recycled materials from lead-acid batteries are~~
34 ~~encouraged.~~

35 ~~42420.2. This chapter shall be known, and may be cited, as the~~
36 ~~Lead-Acid Battery Recovery and Recycling Act.~~

37 ~~42421. For purposes of this chapter, the following definitions~~
38 ~~shall apply:~~

39 ~~(a) (1) "Consumer" means an owner of a lead-acid battery,~~
40 ~~including a person, business, corporation, limited partnership,~~

1 nonprofit organization, or governmental entity, including the
2 ultimate purchaser, owner, or lessee of a lead-acid battery.

3 (2) “Consumer” does not include a governmental organization
4 or other party that obtains one or more used lead-acid batteries in
5 the course of collecting used lead-acid batteries for recycling for
6 purposes of this chapter, or through the ordinary collection and
7 handling of municipal solid waste.

8 (b) “Distributor” means a company that has a contractual
9 relationship with one or more manufacturers to market and sell
10 lead-acid batteries to retailers.

11 (c) “Good-faith effort” means all reasonable and economically
12 practical efforts, consistent with the components identified in the
13 approved plan and annual budget of a lead-acid battery recycling
14 organization.

15 (d) “Importer” means a party qualifying as an “importer of
16 record” for purposes of Section 1484(a)(2)(B) of Title 19 of the
17 United States Code, with regard to the import of a finished
18 lead-acid battery sold in the state that was manufactured or
19 assembled by a company outside the United States.

20 (e) “Lead-acid battery” means any battery that consists of lead
21 and sulfuric acid and is used as a power source.

22 (f) “Lead-acid battery recycling organization” or “organization”
23 means an organization exempt from taxation under Section
24 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code of
25 1986, that is established by a qualified industry association,
26 composed of manufacturers, recyclers, retailers, and environmental
27 justice organizations, and certified pursuant to Section 42422, to
28 develop, implement, and administer the lead-acid battery recycling
29 program established pursuant to this chapter.

30 (g) (1) “Manufacturer” means any of the following:

31 (A) The person who manufactures a lead-acid battery and who
32 sells, offers for sale, or distributes a lead-acid battery in the state.

33 (B) The person who imports the lead-acid battery into the state
34 for sale or distribution if there is no person who is a manufacturer
35 of a lead-acid battery for purposes of subparagraph (A).

36 (2) A retailer that brings a lead-acid battery into its store
37 locations from an out-of-state warehouse or distribution center is
38 not a manufacturer.

39 (h) “Program” or “lead-acid battery recycling program” means
40 the program implemented by the lead-acid battery recycling

1 organization pursuant to a lead-acid battery recycling plan approved
2 by the department.

3 (i) “Qualified industry association” means the Battery Council
4 International, or a successor of that organization, or a group of
5 lead-acid battery manufacturers that collectively represent at least
6 35 percent of the volume of lead-acid batteries manufactured in
7 the United States.

8 (j) “Recycle” or “recycling” has the same meaning as defined
9 in Section 40180.

10 (k) “Recycler” means a person that engages in the manual or
11 mechanical separation of lead-acid batteries to substantially recover
12 components and commodities contained in lead-acid batteries for
13 the purpose of reuse or recycling.

14 (l) “Recycling charge” or “charge” means the charge imposed
15 on the sale of a new lead-acid battery at the point of sale and
16 collected by the recycling organization to fund the recycling of
17 used lead-acid batteries pursuant to this chapter.

18 (m) “Retailer” means a person who sells lead-acid batteries in
19 the state or offers to a consumer a lead-acid battery in the state
20 through any means, including, but not limited to, remote offering,
21 including sales outlets or catalogs, electronically through the
22 Internet, by telephone, or through the mail.

23 (n) “Sale” or “sell” means the transfer of title of a lead-acid
24 battery for consideration, including by a manufacturer, a distributor,
25 or a retailer, for eventual consumption to a consumer in the state,
26 including remote sales conducted through sales outlets, catalogs,
27 or the Internet or any other similar electronic means.

28 (o) “Solid waste facility” means, for purposes of this chapter,
29 a solid waste facility that accepts, under its normal operating
30 conditions, used lead-acid batteries from the public for collection,
31 storing, and handling, whether for recycling or disposal.

32 (p) “Used lead-acid battery recovery and recycling plan” or
33 “plan” means the plan for recycling used lead-acid batteries that
34 is developed by the lead-acid battery recycling organization
35 pursuant to this chapter.

36 Article 2. Lead-Acid Battery Recycling Plan

37
38
39 42422. (a) (1) On or before July 1, 2017, a qualified industry
40 association shall establish a lead-acid battery recycling organization

1 ~~for purposes of this chapter, which shall be composed of~~
2 ~~manufacturers, recyclers, and retailers and be certified pursuant~~
3 ~~to this section to develop, implement, and administer the lead-acid~~
4 ~~battery recycling program established pursuant to this chapter.~~

5 ~~(2) Within 60 days of receipt of a request for certification, the~~
6 ~~department shall certify the organization as specified in paragraph~~
7 ~~(1) or notify the requesting qualified industry association of the~~
8 ~~department's decision not to certify the organization.~~

9 ~~(3) Prior to certification by the department, the department's~~
10 ~~director shall appoint an advisory committee to advise the lead-acid~~
11 ~~battery recycling organization.~~

12 ~~(A) The advisory committee shall be composed of members of~~
13 ~~the environmental community, the solid waste industry, local~~
14 ~~governmental entities, public and private entities involved in the~~
15 ~~collection, processing, and recycling of used lead-acid batteries,~~
16 ~~and other interested parties.~~

17 ~~(B) The lead-acid battery recycling organization shall consult~~
18 ~~the advisory committee at least once during the development of~~
19 ~~the plan required pursuant to Section 42422.2, and annually prior~~
20 ~~to the submittal of the annual report required pursuant to Section~~
21 ~~42425.2 and the annual budget required pursuant to Section 42423.~~

22 ~~(C) The advisory committee shall provide ongoing feedback to~~
23 ~~a recycling organization on the implementation of the recycling~~
24 ~~organization's plan.~~

25 ~~(b) On or before January 1, 2018, each manufacturer, retailer,~~
26 ~~and recycler shall register with the lead-acid battery recycling~~
27 ~~organization.~~

28 ~~(c) On and after January 1, 2019, a retailer shall not sell,~~
29 ~~distribute, or offer for sale a lead-acid battery in the state unless~~
30 ~~the retailer is in compliance with this chapter and the manufacturer~~
31 ~~or recycler of the lead-acid battery sold by the retailer is listed in~~
32 ~~compliance with this chapter.~~

33 ~~(d) On and after January 1, 2019, a manufacturer or recycler~~
34 ~~shall not sell or offer for sale in this state, or import into this state,~~
35 ~~a lead-acid battery, or sell or distribute a lead-acid battery to a~~
36 ~~distributor or retailer in this state, unless the manufacturer or~~
37 ~~recycler is in compliance with this chapter.~~

38 ~~42422.2. On or before July 1, 2018, the lead-acid battery~~
39 ~~recycling organization shall develop and submit to the department~~
40 ~~a plan for recycling used lead-acid batteries in the state in an~~

1 economically efficient and practical manner that includes all of
2 the following goals and elements:

3 (a) Program objectives consistent with the state's solid waste
4 management hierarchy.

5 (b) The names of manufacturers, recyclers, and brands, including
6 the types of lead-acid batteries, covered under the plan, and contact
7 information of manufacturers and producers covered under the
8 plan.

9 (c) A description of a consultation process with affected
10 stakeholders, including, but not limited to, local government
11 representatives, recyclers, and solid waste industry representatives,
12 undertaken during plan development, and a process for receiving
13 continuous feedback from stakeholders during plan
14 implementation.

15 (d) Methods to increase the number of used lead-acid batteries
16 diverted from landfills, reduce the number of illegally dumped
17 used lead-acid batteries, and increase the quantity of used
18 lead-acid battery-related materials recovered and recycled for other
19 uses.

20 (e) A description of how the goals will be achieved and how
21 results will be measured, including an estimate of the amount of
22 lead-acid batteries with California recycling stickers that will be
23 recovered compared to the amount of lead-acid batteries sold in
24 the state.

25 (f) Roles and responsibilities of key players along the product
26 chain, including the names and locations of transporters, recyclers,
27 and disposal facilities, and a description of how lead-acid batteries
28 with California recycling stickers and their components will be
29 collected, transported, and managed.

30 (g) Strategies for managing and reducing the life cycle impacts
31 of lead-acid batteries, including finding an alternative to the use
32 of lead in batteries.

33 (h) Conducting research, as needed, related to improving
34 collection and recycling operations for used lead-acid batteries
35 with California recycling stickers, including pilot programs to test
36 new processes, methods, or equipment on a local, regional, or
37 otherwise limited basis.

38 (i) An itemized budget, including total program cost.

1 ~~(j) (1) The establishment and administration of a mechanism~~
2 ~~that distributes the lead-acid battery recycling organization's costs~~
3 ~~uniformly over all lead-acid batteries sold in the state.~~

4 ~~(2) The funding mechanism shall provide sufficient funding for~~
5 ~~the lead-acid battery recycling organization to carry out the plan,~~
6 ~~including the administrative, operational, and capital costs of the~~
7 ~~plan.~~

8 ~~(k) Financing methods, including financial assurance, for the~~
9 ~~program and an explanation of how the recycling organization will~~
10 ~~provide evidence of adequate collection, handling, and recycling~~
11 ~~or disposal of lead-acid batteries with California recycling stickers.~~

12 ~~(l) The publishing of an annual report for each calendar year of~~
13 ~~operation.~~

14 ~~(m) A program performance measurement that shall collect~~
15 ~~program data for the purpose of the annual report. The information~~
16 ~~shall include:~~

17 ~~(1) A methodology for estimating the amount of lead-acid~~
18 ~~batteries sold in the state and for quantifying the number of used~~
19 ~~lead-acid batteries with California recycling stickers collected and~~
20 ~~recycled in the state.~~

21 ~~(2) A methodology for determining the proportion of lead-acid~~
22 ~~batteries sold in the state by the manufacturers that are members~~
23 ~~of the lead-acid battery recycling organization.~~

24 ~~(n) A description of methods used to coordinate activities with~~
25 ~~other used lead-acid battery collecting and recycling programs,~~
26 ~~including nonprofit lead-acid battery recyclers, and other relevant~~
27 ~~parties, as appropriate, with regard to the proper management or~~
28 ~~recycling of discarded or abandoned lead-acid batteries for~~
29 ~~purposes of providing the efficient delivery of services and~~
30 ~~avoiding unnecessary duplication of effort and expense.~~

31 ~~(o) Entering into contracts or agreements, which may include~~
32 ~~contracts and agreements with nonprofit or for-profit recyclers,~~
33 ~~that are necessary and proper for the lead-acid battery recycling~~
34 ~~organization to carry out these duties consistent with the terms of~~
35 ~~this chapter.~~

36 ~~(p) Establishment of a financial incentive to encourage parties~~
37 ~~to collect for recycling used lead-acid batteries discarded or~~
38 ~~illegally dumped in the state.~~

39 ~~(q) Ensuring, to the maximum extent possible, that urban and~~
40 ~~rural local governments and participating solid waste facilities that~~

1 accept lead-acid batteries are provided with a mechanism for the
2 recovery of illegally disposed used lead-acid batteries that is funded
3 at no additional cost to the local government or solid waste facility.

4 (r) ~~Providing outreach efforts and education to consumers,~~
5 ~~manufacturers, and retailers, for the purpose of promoting the~~
6 ~~recycling of used lead-acid batteries and options available to~~
7 ~~consumers for the free drop-off of used lead-acid batteries.~~

8 (s) ~~A provision that allows an individual to drop off, at no~~
9 ~~charge, a lead-acid battery at a lead-acid battery recycling center,~~
10 ~~permitted solid waste facility, or other municipal facility that~~
11 ~~accepts lead-acid batteries, and that provides for reasonable~~
12 ~~payment to a municipal or solid waste facility that accepts lead-acid~~
13 ~~batteries for collecting, storing, transporting, and handling used~~
14 ~~lead-acid batteries.~~

15 (t) ~~Ensuring that the impact of Article XIII C of the California~~
16 ~~Constitution is addressed for local governments participating in~~
17 ~~the program.~~

18 (u) ~~A report from the advisory committee, established pursuant~~
19 ~~to paragraph (3) of subdivision (a) of Section 42422, that includes~~
20 ~~a summary of the consultative process between the advisory~~
21 ~~committee and the lead-acid battery recycling organization during~~
22 ~~the development of the plan, as well as any other information~~
23 ~~deemed pertinent by the advisory committee to maximizing the~~
24 ~~recovery and recycling of used lead-acid batteries in the state.~~

25 (v) ~~Other information requested by the department that is~~
26 ~~reasonably related to compliance with the recycling plan and that~~
27 ~~the organization can reasonably compile.~~

28 42422.4. ~~The recycling organization, in developing the plan~~
29 ~~pursuant to Section 42422.2, may include market development~~
30 ~~opportunities that would provide incentives to universities and~~
31 ~~research companies to find alternatives to lead.~~

32 42422.6. (a) ~~The department shall review the plan for~~
33 ~~compliance with this chapter and shall approve, disapprove, or~~
34 ~~conditionally approve the plan within 90 days of receipt of the~~
35 ~~plan. If the department fails to act within 90 days of the receipt of~~
36 ~~the plan, the plan shall be deemed approved.~~

37 (b) ~~If the department disapproves the plan pursuant to~~
38 ~~subdivision (a), the department shall explain, in writing, how the~~
39 ~~plan does not comply with this chapter, and the lead-acid battery~~
40 ~~recycling organization shall resubmit a plan to the department. If~~

1 the department finds that the plan as resubmitted by the
2 organization does not comply with the requirements of this chapter,
3 the lead-acid battery recycling organization shall be deemed not
4 in compliance with this chapter until the organization submits a
5 plan that the department finds complies with the requirements of
6 this chapter. The lead-acid battery recycling organization shall not
7 resubmit the plan more than two times to the department.

8 (e) The approved plan shall be a public record, except that
9 financial, production, or sales data reported to the department by
10 the lead-acid battery recycling organization is not public record
11 for purposes of the California Public Records Act (Chapter 3.5
12 (commencing with Section 6250) of Division 7 of Title 1 of the
13 Government Code) and shall not be open to public inspection. The
14 department may release financial, production, or sales data in
15 summary form only so that the information cannot be attributable
16 to a specific manufacturer, retailer, or other entity.

17 42422.8. Within 90 days after approval or conditional approval
18 by the department of the plan, but no later than January 1, 2019,
19 the lead-acid battery recycling organization shall implement the
20 approved plan.

21 42422.9. (a) On or before January 1, 2021, based on
22 methodology contained in the plan and information contained in
23 the first annual report, the department, in consultation with the
24 organization and after taking into consideration relevant economic
25 and practical considerations and other information, shall establish
26 and make public the following:

27 (1) The state baseline amount of recycling of lead-acid batteries
28 with California recycling stickers.

29 (2) The state recycling goals for lead-acid batteries with
30 California recycling stickers.

31 (b) Beginning July 1, 2022, and annually thereafter, the annual
32 report required pursuant to Section 42425.2 shall demonstrate the
33 lead-acid battery recycling organization's good-faith effort to
34 comply with the state lead-acid battery recycling goals established
35 pursuant to this section.

36 (c) On or before July 1, 2023, and every four years thereafter,
37 the department shall review, including reviewing for consistency
38 with Section 41780.01, and update, as necessary, the baseline
39 amount and goals to ensure that the program advances the state
40 recycling goal.

Article 3. ~~Budget~~

~~42423. On or before July 1, 2018, and on or before July 1 annually thereafter, the lead-acid battery recycling organization shall prepare and submit to the department a proposed used lead-acid battery recycling program budget for the following calendar year that includes all of the following:~~

~~(a) Anticipated revenues and costs of implementing the program, including related programs, projects, contracts, and administrative expenses.~~

~~(b) A recommended funding level sufficient to cover the plan's budgeted costs and to operate the lead-acid battery recycling program over a multiyear period in a prudent and responsible manner.~~

~~(c) The amount of the lead-acid battery recycling charge and an itemization of the costs of the program.~~

~~42423.2. (a) On or before October 1, 2018, and annually thereafter, the department shall approve or disapprove a final used lead-acid battery recycling program budget. If the department fails to act or does not disapprove a final used lead-acid battery recycling program budget, the budget shall be deemed approved.~~

~~(b) (1) If the department disapproves the budget, the department shall explain, in writing, how the budget does not comply with this article, and the lead-acid battery recycling organization shall submit a revised budget addressing the department's written reasons for its decision within 30 days of the disapproval.~~

~~(2) The department, within 30 days from the date the lead-acid battery recycling organization submits a revised budget, shall approve or disapprove a final used lead-acid battery recycling program budget. If the department fails to act or does not disapprove a final program budget within those 30 days, the budget shall be deemed approved.~~

~~42423.4. (a) The department shall notify the lead-acid battery recycling organization of the department's costs that are directly related to implementing and enforcing this chapter relating to the lead-acid battery recycling organization's activities. This may include the direct costs associated with regulatory development prior to submittal of the plan required pursuant to Section 42422.2. The total amount shall not exceed the department's direct costs to implement and enforce this chapter.~~

1 ~~(b) On or before July 1, 2019, and once every three months~~
2 ~~thereafter, and within the fiscal year ending June 30, the lead-acid~~
3 ~~battery recycling organization shall reimburse the department for~~
4 ~~costs the department incurs of which the organization is notified~~
5 ~~pursuant to subdivision (a).~~

6 ~~(c) The department shall deposit all moneys submitted pursuant~~
7 ~~to this section into the Used Lead-Acid Battery Recycling Fund,~~
8 ~~which is hereby established in the State Treasury. Upon~~
9 ~~appropriation by the Legislature, moneys in the fund shall be~~
10 ~~expended by the department to administer and enforce this chapter,~~
11 ~~as well as reimburse any outstanding loans made from other funds~~
12 ~~used to finance startup costs of the department's activities pursuant~~
13 ~~to this chapter. The funds collected pursuant to this section shall~~
14 ~~not be expended for any other purpose.~~

15
16 Article 4. Lead-Acid Battery Recycling Charge
17

18 ~~42424. (a) The lead-acid battery recycling organization shall~~
19 ~~set the amount of the lead-acid battery recycling charge that shall~~
20 ~~be added to the purchase price of a lead-acid battery at the point~~
21 ~~of sale and include the charge amount in the annual budget.~~

22 ~~(b) The lead-acid battery recycling charge shall meet all of the~~
23 ~~following:~~

24 ~~(1) It shall be based on the value of lead.~~

25 ~~(2) It shall be no more than twenty dollars (\$20) and no less~~
26 ~~than fifteen dollars (\$15).~~

27 ~~(3) It shall be a flat rate and not a percentage of the purchase~~
28 ~~price of the lead-acid battery.~~

29 ~~(c) The recycling organization shall not set more than two~~
30 ~~different charges to accommodate lead-acid battery size~~
31 ~~differentials.~~

32 ~~(d) The lead-acid battery recycling charge shall be charged in~~
33 ~~lieu of any voluntary core charge being collected by retailers~~
34 ~~covered under this chapter.~~

35 ~~(e) If the amount of the lead-acid battery recycling charge~~
36 ~~changes pursuant to subdivision (f), the recycling organization~~
37 ~~shall notify retailers and any other entities that collect the recycling~~
38 ~~charge.~~

39 ~~(f) (1) In the first 12 months during which the lead-acid battery~~
40 ~~recycling charge is collected, the lead-acid battery recycling~~

~~organization may change the amount of the lead-acid battery recycling charge, in accordance with subdivision (b), and shall provide no less than 90 days' notice to the public of any change in the amount of the charge.~~

~~(2) After one year from the date when the collection of the lead-acid battery recycling charge commences, the lead-acid battery recycling organization may change the amount of the charge, in accordance with subdivision (b), but the lead-acid battery recycling organization shall not change the amount of the charge more frequently than annually and shall provide no less than 180 days' notice to the public before the change in the amount of the charge takes effect.~~

~~(g) The amount of the lead-acid battery recycling charge shall be included in the annual program budget for approval by the department.~~

~~42424.1. (a) On a quarterly basis, a manufacturer, recycler, retailer, or distributor shall submit all moneys collected pursuant to this article, minus the amount disbursed to consumers for the return of lead-acid batteries with California recycling stickers pursuant to Section 42427, to the recycling organization along with any additional paperwork required by the department.~~

~~(b) (1) The recycling organization shall remit to the state one dollar (\$1) from the sale of each lead-acid battery with a California recycling sticker to be deposited in the Lead-Acid Battery Cleanup Fund, which is hereby created. Money in the Lead-Acid Battery Cleanup Fund shall be continuously appropriated, without regard to fiscal year, to the Department of Toxic Substances Control for the cleanup of areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries and activities described in Article 11 (commencing with Section 42431).~~

~~(2) The balance in the Lead-Acid Battery Cleanup Fund shall not be more than one hundred million dollars (\$100,000,000). If the balance in the Lead-Acid Battery Cleanup Fund reaches one hundred million dollars (\$100,000,000), notice shall be given to the organization, and a retailer of lead-acid batteries and other collectors of the lead-acid battery recycling charge shall decrease the amount of the lead-acid battery recycling charge by one dollar (\$1) and the recycling organization shall suspend remitting moneys pursuant to paragraph (1). When the fund reaches thirty million~~

1 dollars (\$30,000,000), notice shall be given to the organization;
2 and the retailer or collector of the recycling charge shall increase
3 the lead-acid battery recycling charge by one dollar (\$1) and the
4 recycling organization shall resume remitting moneys pursuant to
5 paragraph (1):

6 ~~42424.2. (a) Commencing 90 days after the date the department~~
7 ~~approves or conditionally approves the plan pursuant to Section~~
8 ~~42422.6, each manufacturer, recycler, retailer, or distributor that~~
9 ~~sells a lead-acid battery to a consumer or to the ultimate end user~~
10 ~~of the lead-acid battery in the state shall add the charge to the~~
11 ~~purchase price of the lead-acid battery.~~

12 ~~(b) In each transaction described in subdivision (a), the charge~~
13 ~~shall be clearly visible as a separate line item on the invoice,~~
14 ~~receipt, or functionally equivalent billing document provided by~~
15 ~~the retailer to the consumer.~~

16 ~~(c) The lead-acid battery recycling organization shall develop~~
17 ~~reimbursement criteria to enable retailers to recover administrative~~
18 ~~costs associated with collecting the charge.~~

19 ~~(d) The lead-acid battery recycling organization shall determine~~
20 ~~the rules and procedures that are necessary and proper to implement~~
21 ~~the collection of the charge in a fair, efficient, and lawful manner.~~

22 ~~42424.4. (a) The lead-acid battery recycling organization may~~
23 ~~conduct an audit of the parties that are required to remit the charge~~
24 ~~to the lead-acid battery recycling organization to verify that the~~
25 ~~charges paid are proper and accurate and to ensure all parties~~
26 ~~required by this chapter to pay or collect the charge are paying or~~
27 ~~collecting the proper amount.~~

28 ~~(b) An audit conducted pursuant to this section shall be carried~~
29 ~~out in accordance with generally accepted auditing practices and~~
30 ~~shall be limited in scope to confirming whether the charge has~~
31 ~~been properly collected on all sales of lead-acid batteries to~~
32 ~~consumers in the state.~~

33 ~~(c) For purposes of conducting audits pursuant to this section,~~
34 ~~the lead-acid battery recycling organization shall hire independent~~
35 ~~third-party auditors.~~

36 ~~(d) If the lead-acid battery recycling organization conducts an~~
37 ~~audit pursuant to this section, the organization shall provide a copy~~
38 ~~of the audit to the department.~~

39 ~~42424.6. (a) Except as provided in Section 42424.1, the~~
40 ~~lead-acid battery recycling organization shall deposit the charges~~

1 and other moneys collected by the lead-acid battery recycling
2 organization pursuant to this chapter in accounts that are
3 maintained and disbursed by the organization.

4 (b) The lead-acid battery recycling organization may enter into
5 a joint venture, agreements, or contracts with third parties,
6 including, but not limited to, corporations, partnerships, nonprofit
7 entities, and governmental agencies, to undertake activities on the
8 lead-acid battery recycling organization's behalf that are consistent
9 with this chapter.

10
11 Article 5. Records, Audits, and Annual Report
12

13 42425. (a) The lead-acid battery recycling organization shall
14 keep minutes, books, and records that clearly reflect the activities
15 and transactions of the organization.

16 (b) (1) The accounting books of the lead-acid battery recycling
17 organization shall be audited at the organization's expense by an
18 independent certified public accountant retained by the organization
19 at least once each calendar year.

20 (2) The audit shall include, but is not limited to, the recycling
21 organization's program results and the number of lead-acid
22 batteries with California recycling stickers that have been returned
23 pursuant to Article 7 (commencing with Section 42427) in
24 comparison to the number of lead-acid batteries sold in the state.

25 (c) The lead-acid battery recycling organization shall arrange
26 for each audit conducted since the prior annual report to be
27 delivered to the department, along with the annual report required
28 pursuant to Section 42425.2. The department shall review each
29 audit for compliance with this chapter and consistency with the
30 plan created pursuant to this chapter. The department shall notify
31 the lead-acid battery recycling organization of any compliance
32 issues or inconsistencies. The lead-acid battery recycling
33 organization may obtain copies of the audits upon request. The
34 department shall not disclose any confidential proprietary
35 information in an audit.

36 (d) The department may conduct its own audit if it determines
37 that an audit is necessary to enforce the requirements of this chapter
38 and that audits conducted pursuant to subdivision (b) are not
39 adequate for this purpose.

1 ~~42425.2. On or before July 1, 2020, and each year thereafter,~~
2 ~~the lead-acid battery recycling organization shall submit to the~~
3 ~~department and make publicly available on its Internet Web site~~
4 ~~a report that includes, for the preceding calendar year, all of the~~
5 ~~following:~~

6 ~~(a) The lead-acid battery recycling organization's costs and~~
7 ~~revenues.~~

8 ~~(b) The quantity of discarded used lead-acid batteries with~~
9 ~~California recycling stickers collected for recycling in the program.~~

10 ~~(c) The quantity of used lead-acid batteries with California~~
11 ~~recycling stickers collected for recycling from different types of~~
12 ~~collection points.~~

13 ~~(d) The quantity of materials recycled, disaggregated by~~
14 ~~material.~~

15 ~~(e) The uses for the recycled materials, disaggregated by~~
16 ~~material.~~

17 ~~(f) The quantity of materials disposed of without recycling.~~

18 ~~(g) A description of methods used, and the best management~~
19 ~~practices, to collect, transport, and process used lead-acid batteries~~
20 ~~in this state.~~

21 ~~(h) In the first report pursuant to this section, examples of~~
22 ~~educational materials that were provided to consumers during the~~
23 ~~program's first year, and, in subsequent years, any changes to those~~
24 ~~materials.~~

25 ~~(i) The total volume, number, and weight of used lead-acid~~
26 ~~batteries with California recycling stickers collected, recycled, and~~
27 ~~reused in this state during the preceding calendar year, including~~
28 ~~any conversion factor used to determine the number of lead-acid~~
29 ~~batteries recovered.~~

30 ~~(j) A report by the advisory committee, established pursuant to~~
31 ~~paragraph (3) of subdivision (a) of Section 42422 that includes a~~
32 ~~summary of the consultative process between the advisory~~
33 ~~committee and the lead-acid battery recycling organization relating~~
34 ~~to the ongoing implementation of the plan, as well as any other~~
35 ~~information deemed pertinent by the advisory committee to~~
36 ~~maximizing the recovery and recycling of used lead-acid batteries~~
37 ~~in the state.~~

38 ~~(k) For reports submitted on and after April 1, 2023, a~~
39 ~~demonstration of good-faith effort with the state lead-acid battery~~
40 ~~recycling goals established pursuant to Section 42422.9.~~

~~(l) (1) Any modifications or revisions to the lead-acid battery recycling plan including those required pursuant to Section 42422.2, necessary to achieve the state lead-acid battery recycling goals established pursuant to Section 42422.9.~~

~~(2) Any proposed modifications or revisions to the lead-acid battery recycling plan shall be submitted to the department and are subject to the department review process prescribed in Section 42422.6.~~

~~(3) Within 90 days after approval or conditional approval by the department, the lead-acid battery recycling organization shall implement the revised plan.~~

~~(m) Other information relevant to compliance with the plan.~~

~~42425.4. No later than 60 days after the date the department receives the annual report, the department shall notify the lead-acid battery recycling organization of any deficiencies in the report. No later than 60 days after receiving this notice from the department, the lead-acid battery recycling organization shall provide additional information, or modify or make corrections in the report, in response to the department's notification.~~

Article 6. Lead-Acid Battery Recycling

~~42426. (a) On or before July 1, 2020, and annually thereafter, a person that is engaged in business as a recycler shall submit a report to the department that includes the following:~~

~~(1) The number of lead-acid batteries with California recycling stickers received and recycled in the state during the preceding calendar year.~~

~~(2) Other information deemed necessary by the department that is reasonably related to compliance with this chapter and that can be reasonably compiled.~~

~~(b) For purposes of determining the used lead-acid battery recycling rate, on or before July 1, 2020, and annually thereafter, the operator of a solid waste landfill facility within the state shall report to the department, if requested, in a form and manner determined by the department, regarding the number of used lead-acid batteries with California recycling stickers received by that facility that were recycled or disposed of in the preceding calendar year.~~

1 ~~(e) The department shall make the information provided pursuant~~
2 ~~to this section available to interested parties and to the public.~~

3
4 ~~Article 7. California Lead-Acid Battery Consumer Recycling~~
5 ~~Program~~
6

7 ~~42427. (a) On and after the same date a manufacturer, recycler,~~
8 ~~retailer, or distributor described in Section 42424.2 is required to~~
9 ~~add the recycling charge to the purchase price of a lead-acid~~
10 ~~battery, that manufacturer, recycler, retailer or distributor shall~~
11 ~~affix a California recycling sticker, as determined by the~~
12 ~~department, to each lead-acid battery at the point of sale. Every~~
13 ~~lead-acid battery sold in California on and after that date shall be~~
14 ~~labeled with that California recycling sticker.~~

15 ~~(b) (1) Except as provided in paragraph (2), a consumer who~~
16 ~~returns a lead-acid battery with a California recycling sticker to a~~
17 ~~manufacturer, retailer, or other entity that sells lead-acid batteries~~
18 ~~to the ultimate user shall be given a refund of the recycling charge~~
19 ~~minus three dollars (\$3).~~

20 ~~(2) If at the time the consumer returns a lead-acid battery the~~
21 ~~recycling organization is not remitting one dollar (\$1) into the~~
22 ~~Lead-Acid Battery Cleanup Fund, as described in paragraph (2)~~
23 ~~of subdivision (b) of Section 42424.1, the refund shall be the~~
24 ~~recycling charge minus two dollars (\$2).~~

25 ~~(3) One dollar (\$1) of the three dollars (\$3) described in~~
26 ~~paragraph (1) shall be used as the one dollar (\$1) remitted to the~~
27 ~~Lead-Acid Battery Cleanup Fund pursuant to Section 42424.1.~~
28 ~~The remaining two dollars (\$2) shall be used by the lead-acid~~
29 ~~battery recycling organization for administration and~~
30 ~~implementation of the program.~~

31 ~~(c) A consumer who returns a lead-acid battery without a~~
32 ~~California recycling sticker shall not be given a refund.~~

33 ~~42427.2. If the total amount of refunds given out by an entity~~
34 ~~exceeds the total amount of recycling charge collected by the entity,~~
35 ~~the entity shall receive moneys from the recycling organization in~~
36 ~~the amount of the difference.~~

37 ~~42427.4. An entity that sells or distributes a lead-acid battery~~
38 ~~in California to the ultimate user shall accept a used lead-acid~~
39 ~~battery regardless if the lead-acid battery has a California recycling~~
40 ~~sticker.~~

1 ~~42427.6. A retailer that sells a used lead-acid battery to a~~
2 ~~manufacturer shall remit 75 percent of the sale price of the used~~
3 ~~lead-acid battery to the lead-acid battery recycling organization~~
4 ~~for deposit into the Lead-Acid Battery Cleanup Fund.~~

5
6 Article 8. Enforcement
7

8 ~~42428. (a) On or before March 1, 2018, and annually thereafter,~~
9 ~~the department shall post on its Internet Web site a list of~~
10 ~~manufacturers and recyclers that are in compliance with this~~
11 ~~chapter.~~

12 ~~(b) A manufacturer or recycler that is not listed on the~~
13 ~~department's Internet Web site pursuant to this section, but~~
14 ~~demonstrates compliance with the requirements directly imposed~~
15 ~~by this chapter before the next notice is required to be posted~~
16 ~~pursuant to this section, may request a certification letter from the~~
17 ~~department stating the manufacturer or recycler is in compliance.~~
18 ~~The manufacturer or recycler that receives the letter shall be~~
19 ~~deemed to be in compliance with this chapter.~~

20 ~~(c) A retailer that distributes or sells a lead-acid battery shall~~
21 ~~monitor the department's Internet Web site to determine if the~~
22 ~~manufacturer or recycler is in compliance with this chapter. A~~
23 ~~retailer otherwise in compliance with this chapter shall be deemed~~
24 ~~in compliance with the chapter if, on the date the retailer ordered~~
25 ~~or purchased a lead-acid battery, or within 120 calendar days before~~
26 ~~or after that date, the manufacturer or recycler was listed as~~
27 ~~compliant on the department's Internet Web site, unless it is shown~~
28 ~~the retailer was actually aware of the manufacturer's or recycler's~~
29 ~~noncompliance.~~

30 ~~(d) A retailer may sell or distribute lead-acid batteries through~~
31 ~~sales to the public if those batteries were initially ordered or~~
32 ~~purchased from a manufacturer or recycler when the manufacturer~~
33 ~~or recycler was in compliance with the requirements of this chapter~~
34 ~~or the retailer is deemed compliant in regard to those batteries~~
35 ~~pursuant to subdivision (c).~~

36 ~~(e) The sale, distribution, or offering for sale of any lead-acid~~
37 ~~battery in stock prior to the commencement of the collection of~~
38 ~~the lead-acid battery recycling charge pursuant to this chapter shall~~
39 ~~be deemed to be in compliance with this chapter.~~

1 (f) If the department determines a manufacturer or recycler is
2 not in compliance with this chapter, the department shall remove
3 the manufacturer or recycler from the department's Internet Web
4 site pursuant to this section and the manufacturer or recycler shall
5 not sell a lead-acid battery in the state until the department
6 determines the manufacturer or recycler is in compliance with this
7 chapter.

8 42428.2. (a) The department may impose an administrative
9 civil penalty on any manufacturer, lead-acid battery recycling
10 organization, recycler, or retailer that is in violation of this chapter.
11 The amount of the administrative civil penalty shall not exceed
12 one thousand dollars (\$1,000) per day, but if the violation is
13 intentional, knowing, or reckless, the department may impose an
14 administrative civil penalty of not more than ten thousand dollars
15 (\$10,000) per day.

16 (b) The department shall not impose a penalty on the lead-acid
17 battery recycling organization pursuant to this section for a failure
18 to comply with this chapter if the organization demonstrates it
19 received false or misleading information from a member of the
20 organization or another party that was the direct cause of its failure
21 to comply.

22 (c) The department shall deposit all penalties collected pursuant
23 to this section into the Lead-Acid Battery Recovery and Recycling
24 Penalty Account, which is hereby created in the Used Lead-Acid
25 Battery Recycling Fund. Upon appropriation by the Legislature,
26 moneys deposited into the Lead-Acid Battery Recovery and
27 Recycling Penalty Account shall be expended by the department
28 to administer and enforce this chapter, including offsetting the
29 costs incurred by the department as specified in subdivision (a) of
30 Section 42423.4.

31 42428.4. Upon a written finding that a manufacturer, lead-acid
32 battery recycling organization, recycler, or retailer has not met a
33 material requirement of this chapter, in addition to any other
34 penalties authorized under this chapter, the department may take
35 any of the following actions, after affording the manufacturer,
36 organization, recycler, or retailer a reasonable opportunity to
37 respond to or rebut the finding, to ensure compliance with the
38 requirements of this chapter:

1 ~~(a) Revoke the lead-acid battery recycling organization's plan~~
2 ~~approval or require the lead-acid battery recycling organization to~~
3 ~~resubmit the plan.~~

4 ~~(b) Remove the manufacturer or recycler from the department's~~
5 ~~Internet Web site and list of compliant manufacturers and recyclers,~~
6 ~~as specified in Section 42428.~~

7 ~~(c) Require additional reporting requirements relating to~~
8 ~~compliance with the material requirement identified by the~~
9 ~~department.~~

10 ~~42428.6. (a) A manufacturer, recycler, retailer, and lead-acid~~
11 ~~battery recycling organization shall do both of the following:~~

12 ~~(1) Upon request, provide the department with reasonable and~~
13 ~~timely access, as determined by the department and as authorized~~
14 ~~pursuant to Title 13 (commencing with Section 1822.50) of Part~~
15 ~~3 of the Code of Civil Procedure, to its facilities and operations,~~
16 ~~as necessary to determine compliance with this chapter.~~

17 ~~(2) Upon request, provide the department with relevant records~~
18 ~~necessary to determine compliance with this chapter.~~

19 ~~(b) The records required by this chapter shall be maintained and~~
20 ~~accessible for three years. All reports and records provided to the~~
21 ~~department pursuant to this chapter shall be provided under penalty~~
22 ~~of perjury.~~

23 ~~(c) The department may take disciplinary action against a~~
24 ~~manufacturer, recycler, retailer, or lead-acid battery recycling~~
25 ~~organization if the manufacturer, recycler, retailer, or lead-acid~~
26 ~~battery recycling organization fails to provide the department with~~
27 ~~the access required pursuant to this section, including, but not~~
28 ~~limited to, imposing penalties pursuant to Section 42428.2 and~~
29 ~~posting an immediate notice on the department's Internet Web site~~
30 ~~pursuant to Section 42428 that the manufacturer or recycler is no~~
31 ~~longer in compliance with this chapter.~~

32 Article 9. Emergency Regulatory Authority

33
34
35 ~~42429. (a) (1) The department may adopt emergency~~
36 ~~regulations to implement this chapter with regard to establishing~~
37 ~~a process for the submission and approval of the used lead-acid~~
38 ~~battery recovery and recycling plan, pursuant to Section 42422.6,~~
39 ~~and for the submission and approval of the proposed used lead-acid~~

1 battery recycling program budget, pursuant to Sections 42423 and
2 42423.2.

3 (2) The department shall not adopt regulations pursuant to this
4 section with regard to any other provision of this chapter.

5 (3) This section does not limit the department's authority to
6 adopt regulations pursuant to Section 40502.

7 (b) The emergency regulations adopted pursuant to this section
8 shall be adopted in accordance with Chapter 3.5 (commencing
9 with Section 11340) of Part 1 of Division 3 of Title 2 of the
10 Government Code, and for the purposes of that chapter, including
11 Section 11349.6 of the Government Code, the adoption of these
12 regulations is an emergency and shall be considered by the Office
13 of Administrative Law as necessary for the immediate preservation
14 of the public peace, health, safety, and general welfare.
15 Notwithstanding Chapter 3.5 (commencing with Section 11340)
16 of Part 1 of Division 3 of Title 2 of the Government Code, any
17 emergency regulations adopted by the department pursuant to this
18 section shall be filed with the Office of Administrative Law.

19
20 Article 10. Antitrust Immunity
21

22 42430. (a) Except as provided in subdivision (c), an action
23 specified in subdivision (b) that is taken by a lead-acid battery
24 recycling organization or its members that relates to any of the
25 following is not a violation of the Cartwright Act (Chapter 2
26 (commencing with Section 16700) of Part 2 of Division 7 of the
27 Business and Professions Code), the Unfair Practices Act (Chapter
28 4 (commencing with Section 17000) of Part 2 of Division 7 of the
29 Business and Professions Code), or the Unfair Competition Law
30 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
31 7 of the Business and Professions Code).

32 (b) Subdivision (a) shall apply to all of the following elements
33 of the plan and actions taken by the lead-acid battery recycling
34 organization, manufacturer, or recycler:

35 (1) The creation, implementation, or management of a plan
36 approved by the department pursuant to Article 2 (commencing
37 with Section 42422) and the selection of the types or quantities of
38 used lead-acid batteries recycled or otherwise managed pursuant
39 to a plan, as described in Article 2 (commencing with Section
40 42422).

1 ~~(2) The cost and structure of an approved plan.~~
2 ~~(3) The establishment, administration, collection, or~~
3 ~~disbursement of the charges associated with funding the~~
4 ~~implementation of this chapter.~~

5 ~~(e) Subdivision (a) shall not apply to an agreement that does~~
6 ~~any of the following:~~

7 ~~(1) Fixes a price of or for lead-acid batteries, except for an~~
8 ~~agreement related to costs or charges associated with participation~~
9 ~~in a plan approved or conditionally approved by the department~~
10 ~~and otherwise in accordance with this chapter.~~

11 ~~(2) Fixes the output of production of lead-acid batteries.~~

12 ~~(3) Restricts the geographic area in which, or customers to~~
13 ~~whom, lead-acid batteries will be sold.~~

14
15 ~~Article 11. Cleanup and Corrective Action of Sites~~
16 ~~Contaminated by Lead-Acid Batteries~~

17
18 ~~42431. If the state loans money from the General Fund to the~~
19 ~~Toxic Substances Control Account during the 2016–17 fiscal year~~
20 ~~for the cleanup of lead contamination in the state, the following~~
21 ~~shall apply:~~

22 ~~(a) Money from the Lead-Acid Battery Cleanup Fund may be~~
23 ~~used towards repaying the loan, in an amount necessary to fund~~
24 ~~any share of the cleanup costs for which there is no identifiable~~
25 ~~responsible party.~~

26 ~~(b) Any moneys designated as repayment of the loan shall be~~
27 ~~credited to that loan, but shall be available to be loaned to the Toxic~~
28 ~~Substances Control Account for the purposes of cleaning up~~
29 ~~additional contamination by lead-acid batteries.~~